IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SEVENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 8075 of 2004

Between:

Y. Sarada Devi, s/o Sri Y. Chalapathi Rao,
Pragati High School, Mylargadda, Seethapalmandi,Hyderabad.

..... PETITIONER

AND

1 State of Andhra Pradesh, rep. by its Secretary, Education Department, Secretariat Buildings, Hyderabad.
2 Director of School Education, Govt. of Andhra Pradesh, Hyderabad.
3 District Educational Officer, Hyderabad.
4 Pragati High School, Mylargadda, Seethapalmandi, Hyderabad, rep. by its Secretary.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction especially one in the nature of mandamus: (i) declare that the action of the respondents in not sanctioning the post of Headmistress to the 4th respondent school and depriving the petitioner to draw the scale of a Headmistress of a high school as illegal, arbitrary and offends Articles 14, 16 and 21 of the constitution of India (ii) direct the respondents to treat the post of Headmistress held by the petitioner in the 4th respondent High School from 1-11-1989 as a regular aided Headmistress post and sanction the arrears of salaries due to the petitioner; and (iii) to grant such other relief or reliefs as this Hon'ble Clourt may deem fit and proper in the circumstances of the case,

Counsel for the Petitioner:MR.V.JOGAIAH SARMA

Counsel for the Respondents.: GP FOR EDUCATION

The Court made the following :

ORDER:

This Writ Petition is filed to issue a writ of mandamus to declare the action of the respondents in not sanctioning the post of Head Mistress to the 4th respondent School and depriving the petitioner to draw the scale of a head mistress of a high school as illegal, arbitrary by directing the respondents to treat the post of head mistress held by the petitioner from 1-11-1989 and sanction of arrears of salaries due to the petitioner.

Heard both the learned counsel appearing for the petitioner as well as respondents. The petitioner was appointed as a Teacher in Vedic Vidyalaya, Sitaphalmandi, Hyderabad. But, the said Vedic Vidyalaya School abruptly closed and terminated the services of all the Teachers including the petitioner. On the request of the Teachers and parents of students of the said School, the Government accorded permission to open a new school i.e. Pragati Upper Primary School in the same locality with a condition that the staff and the students shall be the same staff and students as that of the closed Vedic Vidyalaya, Sithaphalmandi,Hyderabad, as per the proceedings of the Director of School Education vide Proceedings No.1714/B1-4/79. During the year 1979-80 the said Upper Primary School was admitted in grant-in-aid vide G.O.Ms.No. 274 dated 27-3-1980 with the staff in pattern of two School Assistants, six Secondary Grade Teachers, one Telugu Pandit,Grade. I and one H.P.Gr.II with effect from 1-7-1979 including the petitioner who was working as School Assistant.

Admittedly the petitioner was holding the charge of Head Mistress of the then Pragathi Upper Primary School,Sithaphalmandi and later during the year 1980-81, 81-82 and 1982-83 classes VIII,IX and X were opened by upgrading the existing upper primary school into full-fledged high school with the permission of the Department and enjoying the recongnition year after year. It is stated that during the year 1989-90 the high school classes were admitted to aid with effect from 1-11-1989 vide G.O.Ms.No.326/Education dated 17-10-1989 with the post of School

Assistant-2, Telugu Pandit Grade.I- 1, H.P.Gr.I-1, ,SGT-2. For additional sanctions in primary Section Grade-I, P.E.T.-1, Junior Assistant-1 and Attender-1, in classes VIII,IX and X, since the opening of the said classes only one section in run in each class. As such only three school assistants have to be granted for the said three classes. It is stated that another school assistant post was also sanctioned instead of sanctioning one post of headmistress for the high school.

It is the grievance of the petitioner that admittedly the petitioner has been working as head mistress even after upgrading the school as per G.O.Ms.No.326 dated 17-10-1989. The petitioner has been working as head mistress continuously and there cannot be any high school without the head master or head mistress as the case may be. Though, the petitioner has been discharging the function of the head mistress, she has not been paid the salaries of head mistress and the action of the respondents in not sanctioning the post of the head master/head mistress is illegal and without any justification.

In so far as the relief of the petitioner that she is entitled for the emoluments of the head mistress post is concerned , I am not inclined to express any opinion as the learned counsel appearing for the petitioner has not brought to my notice any proceeding entitling her for payment of emoluments payable to the petitioner. In so far as the action of the respondents is concerned, there is no justification in not sanctioning the post of head master/ head mistress. Therefore, it is appropriate to direct the respondents to sanction the post of the head master/head mistress to the fourth respondent school from the appropriate date and consider the case of the petitioner for payment of necessary emoluments.

It is brought to my notice that the correspondent of the school is not evincing any interest in submitting the proposal for the sanction of the post of the head master/head mistress, If that be so, the effected parties are the petitioner and other eligible candidates who are entitled to head master post.

Because the correspondent is not evincing any interest, the official respondents cannot permit the said correspondent for keeping quiet without taking any recourse in the matter. Therefore, official respondents are directed to take appropriate action for sanctioning the one post of head master/ head mistress.

The Writ Petition is accordingly disposed of. The respondents are directed to sanction the post of the Head Master/ Head Mistress to the fourth respondent-Pragati High School from the appropriate date and consider the case of the petitioner for payment of necessary emoluments by passing appropriate orders within six weeks, from the date of receipt of a copy of this order. There shall be no order as to costs.

V.ESWARAIAH,J

27th August,2004.

Stp

Sd/-

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Secretary,State of Andhra Pradesh, Education Department, Secretariat Buildings, Hyderabad.

2 Director of School Education, Govt. of Andhra Pradesh, Hyderabad.
3 District Educational Officer, Hyderabad.
4 The Secretary,Pragati High School, Mylargadda, Seethapalmandi, Hyderabad,
5.. 2CCs to G.P.for Education, A.P. High Court Buildings,(OUT)

6.. 2CD copies

THE HON'BLE MR JUSTICE V.ESWARAIAH

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

WRIT PETITION NO : 8075 of 2004

27th August,2004.

-